

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

JEFFERY A. STALLWORTH

PLAINTIFF

V.

CASE NO. 3:16-CV-00578-HTW-LRA

**EAST METRO CORRIDOR COMMISSION, and
THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION**

DEFENDANTS

**MOTION TO DISMISS THE DEFENDANT, THE MISSISSIPPI TRANSPORTATION
COMMISSION**

The Defendant, Mississippi Transportation Commission¹ (hereinafter "MTC"), moves the Court to dismiss this action against MTC for the following reasons:

1. The plaintiff's claims are barred for lack of subject matter jurisdiction and should be dismissed immediately pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure. The plaintiff lacks legal standing upon which to bring the Amended Complaint.

2. Defendant MTC is an agency of the State of Mississippi and this action is barred by the Eleventh Amendment of the Constitution of the United States.

WHEREFORE, the Mississippi Transportation Commission moves this Court for an order dismissing the Mississippi Transportation Commission as a defendant in this action, with prejudice.

¹ Stallworth erroneously named and served the Mississippi Department of Transportation. The Mississippi Transportation Commission is the entity, pursuant to statute, that can sue or be sued. For the sake of clarity, the Commission and the Department will herein be referred to as "MTC."

THIS the 18th day of August, 2016.

Respectfully submitted,

MISSISSIPPI TRANSPORTATION COMMISSION

JIM HOOD, ATTORNEY GENERAL

By: /s/ Daniel B. Smith

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been filed with the Clerk of Court via the Court's ECF system and thereby served on all counsel of record who have entered their appearance in this action. I further certify that the foregoing document has been served on the following person(s) via U.S. Mail properly addressed and postage prepaid:

Jeffrey A. Stallworth
6286 Hanging Moss Rd.
Jackson, MS 39206

THIS the 18th day of August, 2016.

/s/ Daniel B. Smith

Daniel B. Smith